



# OLR RESEARCH REPORT

May 8, 2013

2013-R-0222

## ACQUIRING AND POSSESSING EXPLOSIVES

By: Duke Chen, Legislative Analyst II

You asked for a summary of the laws on acquiring and possessing explosives.

### SUMMARY

Explosives are generally used by businesses for purposes such as mining and demolition. The federal and state laws governing these explosives address licensing and permitting, storage, transport, and recordkeeping.

The federal laws are generally enforced by the U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), with the U.S. Department of Transportation (DOT) regulating certain transportation methods. Specifically, ATF regulations prohibit, among other things, certain activities without a license, including manufacturing, selling, distributing, receiving, or transporting explosives. DOT regulations prohibit transporting any unapproved explosives.

State explosives laws are enforced by the Department of Construction Services (DCS) ([CGS § 29-349](#)), but local fire marshals may issue certain permits. DCS requires both a license and permit before transporting, using, procuring, manufacturing, selling, and storing explosives.

Under both federal and state law, licensees and permittees must (1) store explosives in a safe manner, including specific container requirements and storing them a minimum distance from certain structures and (2) maintain records, including tracking transactions and allowing certain government officials to inspect them.

Fireworks may contain explosives depending on the type. Federal regulations define fireworks into two general categories: (1) “consumer fireworks,” which are intended for use by the general public and (2) “display fireworks,” which are intended for commercial use. Only those who manufacture consumer fireworks must obtain an ATF license, while anyone engaging in the business of importing, manufacturing, dealing in, or receiving display fireworks needs an ATF license or permit. Except for sparklers and fountains, it is illegal to possess or use all types of fireworks in Connecticut (for more information on fireworks, see [OLR Report 2012-R-0387](#)).

Federal and state laws establish penalties for violating these provisions. Under state law, it is illegal for anyone to possess an explosive without a bill of sale or some other proof of its legal transfer. Violators may be fined up to \$10,000, imprisoned up to 10 years, or both ([CGS § 29-348](#)).

## **“EXPLOSIVES” DEFINITION**

### ***Federal Law***

The federal explosives statutes generally define “explosives” as any chemical compound mixture or device, with the primary or common purpose of functioning by explosion. This includes: dynamite and other high explosives, black powder, pellet powder, initiating explosives, detonators, safety fuses, squibs, detonating cord, igniter cord, and igniters. The attorney general may add additional explosives he determines should be included (18 USC § 841). (For the most recent list of explosives, see: <http://www.gpo.gov/fdsys/pkg/FR-2012-09-20/pdf/2012-23241.pdf>.)

### ***State Law***

Generally under Connecticut law, explosives are any chemical compounds or mechanical mixture that contains oxidizing and combustible units or other ingredients in such amount that ignition may cause a sudden generation of highly heated gases that result in gaseous pressure capable of destroying life or limb or neighboring objects ([CGS § 29-343](#)).

## **LICENSES AND PERMITS**

### ***Federal Law***

Federal law generally requires anyone who imports, manufactures, deals, transports, ships, or receives explosives to obtain a federal explosives license or permit from ATF.

A license allows a licensee to engage in the business of importing, manufacturing, or dealing in explosives. A permit allows a permittee to transport and receive explosives, with a limited permit available to those who only work in their state of residence and no more than six times within a 12-month period (18 USC § 843).

The license or permit applicant must not, among other things:

1. be a prohibited person because of certain acts (e.g., criminal, prior institutionalization, or dishonorable discharge from military);
2. have willfully violated any provision of the federal explosives law; and
3. knowingly withhold information in connection with the application.

A license or permit costs \$200 and is valid for three years. The renewal fee is \$100. An initial limited permit that allows for six separate receipts within 12 months costs \$25. Its renewal fee is \$12 (27 CFR §§ 555.42 and 555.43).

### ***State Law***

***License.*** State law requires anyone who stores, transports, or uses explosives to obtain a DCS license. The applicant must submit a \$200 fee and show evidence of good moral character and competence in controlling and handling explosives. The license may be issued only after a person demonstrates that he or she is technically qualified to detonate explosives. The license must bear both of the licensee's fingerprints and his or her photograph taken within a year of the license issuance. Applicants must also submit to a state and national criminal history records check ([CGS § 29-349\(b\)](#)).

***Permits.*** In addition to the license, state law requires a person to obtain a permit before performing certain activities. Anyone who manufactures, keeps, stores, sells, or deals any explosives, must also obtain a written permit from DCS or the fire marshal of the town where

the activity is to be conducted. The permit is valid for a year and costs \$100. The permit must state the location where the explosives will be stored ([CGS § 29-349\(d\)](#)).

Anyone who procures, transports, or uses explosives in the state must also obtain a written permit from DCS or the fire marshal of the town where the activity is conducted. The permit must specify the:

1. purchaser's name,
2. amount of explosives purchased and transported,
3. explosive's purpose, and
4. number of years the permittee has been blasting.

This permit costs \$60 and is valid for as long as is required to accomplish the explosive's purpose, but no more than a year. Finally, DCS must examine and approve all vehicles used to transport explosives. The inspection fee is \$100 ([CGS § 29-349\(e\)](#)).

## **TRANSPORT**

### ***Federal Law***

In addition to requiring an ATF license or permit, federal law requires anyone transporting explosives to comply with federal storage requirements while moving the material (27 CFR § 555.26). The DOT classifies explosives as a hazardous material. This means those who transport explosives must receive certain training, have a security plan, and pack the explosives in a particular manner (49 CFR Part 172).

### ***State Law***

State law generally prohibits anyone from transporting an explosives inn a vehicle with paying customers (e.g., bus or train), though these substances may be carried in a part of the vehicle the customers are not using ([CGS § 29-351](#)). Regulations also require, among other things, certain warnings and requirements on how such vehicles are repaired, stored, and attended (Conn. Agencies Reg. § 29-349-179, et seq.).

## **STORAGE**

### ***Federal Law***

Federal law classifies explosives into three categories: (1) high explosives (e.g., dynamite), (2) low explosives (e.g., black powder), and (3) blasting agents (e.g., ammonium nitrate-fuel oil) (27 CFR § 555.201). Depending on the volatility of the explosive, federal law requires differing levels of containers, each with its own construction requirements (27 CFR § 555.203).

Regardless of the explosive type, all containers must be inspected at least once every seven days and be locked, except for certain circumstances (27 § CFR 555.204). The law also requires the containers to be stored a certain minimum distance from particular locations (e.g., highways or buildings) (27 § CFR 555.206). In addition, the law prohibits open flames near the explosives and limits the amount of explosives that may be stored in a container. Finally, there are requirements on how to keep the containers clean and dry, as well as what type of lighting may be used (27 CFR §§ 555.215 to 555.217).

### ***State Law***

State law generally prohibits anyone from manufacturing or storing any explosives (except gun powder) near another person's property, if the quantity could endanger the lives or safety of others ([CGS § 29-352](#)). The regulations further require two container sizes – one for storing less than 50 pounds of explosives and another for storing more than 50 pounds (Conn. Agencies Reg. § 29-349-126). Regulations also prohibit anyone from storing explosives in any building used as a school, theater, or place where the public gathers (Conn. Agencies Reg. § 29-349-128).

Similar to federal law, state law also has certain storage container-related requirements, including requirements for them to be locked, inventory checks, and construction and inspection checks (Conn. Agencies Reg. § 29-349-130, et seq.).

## **RECORDKEEPING REQUIREMENTS**

### ***Federal Law***

Federal law requires all licensees and permittees to keep records of acquisitions, dispositions, and storage of explosives (27 CFR § 555.107). It requires them to maintain a daily summary of the amount of explosives received, removed, and remaining. This record must be kept at the container in which the explosives are stored or at one central

location on the business premises (27 CFR § 555.127). Sellers must retain, for at least five years, a copy of the ATF form used for the transaction as part of their permanent records (27 CFR § 555.126).

### ***State Law***

State law requires an explosives seller to enter an accurate account of each sale in the course of business. The record must be legible and entered at the time of sale. It must provide a history of the transaction that shows the amount and quantity of explosive sold, the purchaser's name and home and business address, and the name and address of the person to whom the explosives were delivered. The record must be kept at the seller's principal business place in Connecticut and is subject to examination by any military authority, the DCS commissioner or his or her designee, and police officers within the municipality where the seller's business is located. Such authorities may require a seller to produce his or her records from the previous year ([CGS § 29-345](#)).

The law also requires anyone who keeps or stores any explosives to report to the DCS commissioner the (1) location of any building or structure (other than the explosives manufacturing building) approved for explosives storage, (2) type of explosives that are being stored or intended to be stored, (3) maximum quantity stored or to be stored, and (4) distance the building storing the explosives is located from the nearest building or highway. This report must be submitted before explosives may be kept or stored ([CGS § 29-344](#)).

### **RESOURCES**

*ATF: Federal Explosives Law and Regulations (2012)*, U.S. Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives, available online at <https://www.atf.gov/files/publications/download/p/atf-p-5400-7.pdf>

*How to Comply with Federal Hazardous Materials Regulations*, U.S. Department of Transportation, Federal Motor Carrier Safety Administration, available online at <http://www.fmcsa.dot.gov/safety-security/hazmat/complyhmregs.htm#hmc>

DC: car